

From: Patrick McDonnell
To: [Hurand, Gates](#)
Cc: [de Urioste, Alejandra](#); [Oakland, David W.](#); [Tomer, K. Brent](#); [Giglio, Christopher](#)
Subject: Re: [EDITED VERSION O.K. TO FILE] Hi Gates, Please File ECF With The Court Attached To Docket #86 Like You Did Earlier. TY, Patrick - RE: Docket #86 Appropriate Research by Court [Supporting Exhibit 1n]
Date: Tuesday, May 22, 2018 5:05:12 PM

This is the edited O.K. to file. TY

On Tue, May 22, 2018 at 5:03 PM, Patrick McDonnell <18.cv.00361@gmail.com> wrote:
RE: Docket #86 Appropriate Research by Court [Supporting Exhibit 1n]

RE: Docket #86 Appropriate Research by Court [Supporting Exhibit 1n]

RE: UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK (6 Mar, 2018)

COMMODITY FUTURES TRADING COMMISSION vs. PATRICK K. MCDONNELL, and CABBAGETECH, CORP. d/b/a COIN DROP MARKETS,

JACK B. WEINSTEIN, Senior United States District Judge

MEMORANDUM & ORDER [Exhibit 1n]

"Quoting" Section 2(D).

D. Appropriate Research by Court

***Id.* "In deciding jurisdictional, standing and other issues fundamental to the present litigation, the court has engaged in extensive background research, but not on the specific frauds charged. This is appropriate."**

The ABA has issued the following opinion related to individual research by the court:

Easy access to a vast amount of information available on the Internet exposes judges to potential ethical problems. Judges risk violating the Model Code of Judicial Conduct by searching the Internet for information related to participants or facts in a proceeding. Independent investigation of adjudicative facts generally is prohibited unless the information is properly subject to judicial notice. The restriction on independent investigation includes individuals subject to the judge's direction and control.

Committee on Ethics and Responsibility, *Independent Factual Research by Judges Via Internet*, Formal Opinion 478, Dec. 8, 2017 (ABA) (emphasis added).

It is appropriate and necessary for the judge to do research required by a case in order to understand the context and background of the issues involved so long as the judge indicates to the parties the research and conclusions, by opinions and otherwise, so they may contest and clarify. See Abrams, Brewer, Medwed, et al., Evidence Cases and Materials (10th Ed. 2017) (Ch. 9 "Judicial Notice"). It would be a misapprehension of the ABA rule to conclude otherwise.

Adjudicative facts involving defendants' alleged activities have not been the subject of investigation by the court, except at an evidentiary hearing. See Hr'g Tr., Mar. 6, 2018. VI. Conclusion" [quoting at 2(D)].

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